

MODULE 4: Enforcement and Compliance Assurance

I. Monitoring, Record-Keeping, and Reporting to State Agencies, EPA, and Stakeholders

Design Questions

1. What is the **legal implementing mechanism** for the innovation?
2. What **standard permit conditions or regulatory requirements**, if any, will require/have been modified?
3. What are the specific **requirements for environmental monitoring** of this innovation?
4. What are the specific **requirements for keeping records** of this innovation?
5. What are the specific **requirements for reporting to regulatory organizations** regarding this innovation?
6. What are the specific **requirements for reporting to stakeholders** regarding this innovation?
7. Do the reports have a **required audience(s)**? (Y/N) If yes, please identify the audience(s).

Implementation Questions

8. To what extent have the specific **requirements for environmental monitoring** of this innovation been met?
9. To what extent have the specific **requirements for keeping records** been met?
10. To what extent have the specific **requirements for reporting to regulatory organizations** been met?
11. To what extent have the specific **requirements for reporting to stakeholders** been met?
12. Have reports been delivered to the required audiences identified in question 7? (Y/N) If yes, please list dates and method of communication (e.g., website, email, public notice).

II. Verification

13. How do you ensure that the parties to the innovation comply with the provision(s) of the innovation?
 - a. How will the organization's performance under the innovation be compared to the performance that could have been obtained under the normally applicable regulatory structure?

- b. Who is responsible for verifying compliance and environmental performance results and how will it be done?

III. Practical Enforceability of Innovation

- 14. What is the **pre-innovation “baseline”** for enforcement and compliance assurance against which progress will be (is) measured?
- 15. Can an inspector visiting the innovation site **determine historic and current compliance** from the records maintained on site?
- 16. Does the innovative permit, if applicable, **contain a legal obligation** for the source to adhere to the conditions of the limitation??
- 17. Does the permit **rely on the efficiency of a control technology** for compliance with a permit limit? If so, how is that efficiency determined and shown to be accurate?
- 18. Does the innovation agreement **require the correct type and amount of information** (in logs, notices, monitoring data, etc.) to determine the number and duration of any deviations?
- 19. How will regulators determine—prior to and throughout the innovation—that the facility is **continuing to implement the innovation**)?
- 20. Do the terms of the innovation agreement obligate a regulator to exercise its **enforcement discretion** in specific ways (if so, explain)?
- 21. Does the regulator preserve the requisite statutory **inspection and enforcement authority** to satisfy EPA-State delegations of authority?
- 22. How, and for what reasons, will the **organization return to standard permit terms** should it become necessary to terminate the organization’s participation in the innovation

IV. Redirecting Regulatory Oversight

- 23. What **screening criteria** (e.g., compliance history or participation in leadership programs) are used to ensure that good facility partners participate in the innovation?
- 24. If applicable, what combination of **conditions and characteristics** is being used to establish the confidence or analytical basis for redirecting resources (e.g., compliance history, transparency of decision-making, quality and degree of public involvement, third-party auditing, reporting, etc.)?
- 25. What is the analytical basis being used for **determining the relative priority or risk of agency activities** (for the purpose of targeting staff time and resources)?

V. Results and Relative Advantage

26. To what extent is inspection of a source with the innovation comparable to inspection of a similar source operating under conventional approaches?
27. To what extent **can the source** with the innovation **be more/less easily inspected** to determine compliance than a similar source operating under conventional approaches?
28. Does the innovation **improve on enforcement or enforcement practices** over the current system?

Exhibit 4: Model Table for Monitoring, Reporting, and Record-Keeping (MRR)						
Environmental Media and Pollutants of Concern	Monitoring Approach (continuous, parametric, analytical testing, composite sample, grab sample)	Materials Use and Operating Parameter Requirements (e.g., application rate, percentage by weight)	Data Collection Frequency	Reporting Requirements for Regulatory Authorities and Stakeholders	Record-Keeping Requirements	Compliance Notes (specify date of report and note any deviations)
Air Emissions by Pollutant (tons per year)						
Average Effluent Concentrations by Constituent (mg/L)						
Hazardous Waste Generated (pounds)						